

MINUTES OF MEETING
OF THE INDUSTRIAL COMMISSION OF ARIZONA
Held at 800 West Washington Street
Conference Room 308
Phoenix, Arizona 85007
Thursday, January 31, 2019 – 1:00 p.m.

Present:	Dale L. Schultz	Chairman
	Joseph M. Hennelly, Jr.	Vice Chair
	Scott P. LeMarr	Commissioner
	Steven J. Krenznel	Commissioner (Telephonic)
	James Ashley	Director
	Stacey Rogan	Assistant Chief Legal Counsel
	Trevor Laky	Legislative Affairs Chief / Public Information Officer
	Renee Pastor	Self Insurance
	Jessie Atencio	ADOSH Director
	Steven Morgan	ADOSH Assistant Director
	Yvonne Borunda	Acting Commission Secretary

Chairman Schultz convened the meeting at 1:00 p.m. Also in attendance were John Rodgers and Glenda Heath (Premier Risk Management); Lorena Sanchez and Dianne Shoemake (City of Glendale); Michael Fassett (Snell & Wilmer); and Similola Adejughe.

Approval of Executive Session Minutes from January 10, 2019 and Minutes of January 17, 2019 Regular Meeting.

Commissioner LeMarr moved to approve the Executive Session Minutes of the January 10, 2019 meeting and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly and Commissioner LeMarr voted in favor of the motion. Commissioner Krenznel abstained. The motion passed.

Vice Chair Hennelly moved to approve the Minutes of the January 17, 2019 regular session meeting and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion. The motion passed.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

a. Approval of Proposed Civil Penalties Against Uninsured Employers.

1. 2CNP18/19-0114 - Arizona Prestige Construction, LLC
2. 2C18/19-0392 - Neveregret Enterprises, LLC dba Bob's 5 Star Auto Service

b. Approval of Requests for Renewal of Self-Insurance Authority.

1. City of Glendale
2. City of Peoria
3. City of Tempe
4. Pima County

Vice Chair Hennelly moved items b.2 (City of Peoria), b.3 (City of Tempe) and b.4 (Pima County) to the regular agenda.

Commissioner LeMarr moved to approve the remaining items on the Consent Agenda and Vice Chair Hennelly seconded the motion. Chairman Schultz noted the City of Glendale has an excellent experience modification factor and have consistently performed with safety records that are exemplary for their industry. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

City of Peoria – Chairman Schultz expressed concern that the experience modification factor has been going in the wrong direction and would like to have them maintain a factor of 1.10 or less and see a pattern of improvement. Vice Chair Hennelly expressed concern that both the City of Peoria and City of Tempe are going in the wrong direction every year.

Ms. Pastor noted the City of Peoria had a couple of police fatalities that drove the experience modification up in 2017 and that their preventable injuries are down.

City of Tempe – Ms. Pastor noted that last year when the experience modification was tabulated they were contacted and have been working with ADOSH Consultation. She noted there was a fatality this year that will be reflected in the 2018 experience modification.

Vice Chair Hennelly and Ms. Pastor discussed the higher concentration of injuries and losses specifically in the Water Utility Division.

Pima County – Chairman Schultz complimented staff on the excellent review of claims to determine the reason for the initial high denial rate and recalculation of the denial rate.

Vice Chair Hennelly seconded the Chairman's thanks and followed up with a discussion with Ms. Pastor regarding the initial calculation. Chairman Schultz noted that exposure claims are different and filed to protect the rights of the worker, even if the case is ultimately non-compensable because the exposure does not lead to an injury.

Vice Chair Hennelly moved to approve self-insurance authority for the City of Peoria, City of Tempe and Pima County and Commissioner LeMarr seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenzel voted in favor of the motion. The motion passed.

Discussion and Action of Arizona Division of Occupational Safety and Health Proposed Citations and Penalties.

Chairman Schultz discussed the purpose of and process for the Commission's consideration of ADOSH citations and proposed penalties.

Mr. Ashley discussed the Benchmark Gemba with guests from the Department of Financial Institutions, Arizona Lottery, Arizona Department of Gaming, and ADOA-GTO. He noted the positive comments about the AMS document submission portal created by Mr. Porter. He advised that Chief Davidson is planning a visit for a Gemba walk on March 27, 2019.

Mr. Ashley noted the Day at the Capitol will be March 27 starting at 11:00 am.

Mr. Laky provided a legislative update. HB 2137 Excess Insurance is moving steadily and has passed through the Commerce Committee. This is the first bill introduced by Freshman Representative Biasiucci.

Chairman Schultz and Mr. Ashley noted that HB 2137 was internally generated by Ms. Pastor, in the event of insolvencies where the insolvent employer had excess insurance that payments will go to the Special Fund because the Special Fund pays the claims.

Mr. Laky stated the ICA was mentioned in the Governor's email on lighting Arizona blue, for our building being illuminated blue in support of preventing and raising awareness of human and sex trafficking.

Announcements, Scheduling of Future Meetings and Retirement Resolutions.

Mr. Ashley noted the community outreach to Yuma on March 6 and 7 will include a border visit to see the process of day laborers entering to work in Yuma County's agriculture industry for the day.

Ms. Borunda confirmed Commission meeting dates through May 2019. Vice Chair Hennelly noted he may have a conflict with February 14 and Commissioner LeMarr would not available for that day.

Public Comment.

Ms. Adejughe commented on a dispute with her employer. Mr. Ashley noted he appreciated her coming to the meeting and noted at the last Commission Meeting we had assisted her with her claim in the labor division and that the investigators are working on it.

There was no other public comment.

Commissioner LeMarr moved to adjourn and Vice Chair Hennelly seconded the motion. Chairman Schultz, Vice Chair Hennelly, Commissioner LeMarr and Commissioner Krenznel voted in favor of the motion and the meeting was adjourned at 1:49 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By James Ashley
James Ashley, Director

ATTEST:

Yvonne Borunda
Yvonne Borunda, Acting Commission Secretary